



neoFIBRE
Connecting the future

Subscriber Agreement



SERVICE APPLICATION AND SUBSCRIBER AGREEMENT

BETWEEN

(Herein after referred to as The Subscriber)

AND

NEOFIBRE

**(a closed corporation, registered as such within
the laws of the Republic of South Africa
and with the CC Number: 2007/252328/23)
(Hereinafter referred to as NEOFIBRE)**



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GENERAL TERMS AND CONDITIONS OF SUBSCRIBER AGREEMENT

1. DEFINITIONS AND INTERPRETATION

- 1.1. In this Agreement the following expressions, words and/ or phrases, shall bear the meanings assigned thereto as set out below unless inconsistent with or the context thereof indicates otherwise:
- 1.1.1 **"Parties"**
Means the parties to this service application and subscriber agreement.
- 1.1.2 **"Agreement"**
Means this Service Application and Subscriber Agreement together with all the Annexures and/or Appendixes hereto.
- 1.1.3 **"Commencement date"**
Means the date of signature of this Agreement by both parties to this agreement;
- 1.1.4 **"NEOFIBRE"**
Means NEOFIBRE CC as well as all its subsidiaries and as well as all affiliates thereof.
- 1.1.5 **"System"**
Means the radio interface, fixed line, or any other means by which telecommunication services are provided for by NEOFIBRE;
- 1.1.6 **"Services"**
(i) Means the wireless data service, which includes but is not limited to providing data communication via a system and;
(ii) All other such services NEOFIBRE may at its option choose to make available to the Subscriber or any and all other services provided for by NEOFIBRE albeit on its own accord with regards to necessary service needed by the Subscriber or on the instruction and/or request of the subscriber.
- 1.1.7 **"PUJ"**
Means Personal User Identification. Personal User Identification identifies the Subscriber to the system and allows access to the system and services.
- 1.1.8 **"Tariff"**
(i) Means the usual charges and or rates as published by NEOFIBRE and will include any and all amendments made thereto, from time to time,
(ii) NEOFIBRE holds the right to amend the usual charges and/or rates at its sole discretion;
- 1.1.9 **"Equipment"**
Means any and all data equipment, together with all additions and/ or all accessories thereto including hardware, software and intellectual property as specified in this Agreement and/or annexures and/or appendixes hereto, if applicable.
- 1.1.10 **"EFT"**
Means Electronic Funds Transfer
- 1.1.11 **"Written notice and/ or Writing"**
Means notice given by either party to one another on the chosen domicilia addresses of the party as set out in Clause 12 of this Agreement. Written Notice shall not include any message send and/or received either wholly or partially via data message and/or text message as defined in the Electronic Communications Transactions Act (Act No. 25 of 2002).



- 1.1.12 Words that have not been specifically indicated or defined in this Agreement but that have a general and commonly understood meaning and context in the Information Technology and Telecommunication sector will be interpreted as having such meaning and must be read within the context thereof.

2. CONNECTION TO THE SYSTEM AND PROVISIONS OF THE SERVICE

- 2.1. NEOFIBRE shall allocate a PUI to the Subscriber and connect the Subscriber to the system.
- 2.2. NEOFIBRE shall use its best endeavours to make the services available to the Subscriber throughout the duration of this Agreement.
- 2.3. The Subscriber herewith acknowledges that he/she will be liable for all charges and/or rates rendered included for the services provided through the PUI at the agreed tariff.
- 2.4. The Subscriber herewith acknowledges and agrees that NEOFIBRE does not bear responsibility for a lack in quality of service of the package, line stability and speed.
- 2.5. In the event, and in addition to the above, the Subscriber acknowledge and agrees that where and when installation is done by anyone other than NEOFIBRE albeit approved contractors or employees, through the official NEOFIBRE booking channels, NEOFIBRE reserves the right to charge for any changes or system corrections needed on the Subscribers installations and/or networks at the charges and/or rates rendered by NEOFIBRE.
- 2.7. In the event, and in addition to the above, the Subscriber further acknowledge and agrees that where and when installation is done by anyone other than NEOFIBRE - approved contractors or employees, through the official NEOFIBRE booking channels, NEOFIBRE reserves the right to charge for any and all equipment purchased by NEOFIBRE.

3. PAYMENT

- 3.1. Note that all invoices are automatically emailed after said invoices are generated.
- 3.1.1 The Subscriber herewith acknowledges and agrees that upon receipt of the Subscriber's monthly service invoice that it is the responsibility of the Subscriber to contact NEOFIBRE in the event where the Subscriber may have any queries related to any service invoice.
- 3.2. **Payment on additional invoices/services:**
- 3.2.1 The Subscriber herewith acknowledges and accepts that in terms of this agreement the Subscriber may be held liable and responsible for any additional relevant charges and/or rates submitted against the account of the Subscriber which relevant charges and/or rates may not be included in the monthly service invoices.
- 3.2.2 Additional charges and/or rates may include but is not limited to the following:
3.2.2.1 Top Up invoices; or
3.2.2.2 Invoices related to additional services
- 3.3. **Debit Orders:**
- 3.3.1 NEOFIBRE's Debit Orders are processed once a month, generally NEOFIBRE will process such Debit Orders on the first working day of each calendar month of the year (Kindly Take Note that NEOFIBRE will render invoices pro rata in advance).



- 3.3.2 Note that NEOFIBRE reserves the right to change the date and/or day of the month on which NEOFIBRE processes the Debit Orders.
- 3.3.3 Note that for new Subscribers the initial debit order amount may include but is not limited to:
- 3.3.3.1 The First month's subscription for services. a pro rata invoice will be generated. In the event that the activation date occurs after the 25th of that calendar month it will not be included in the Debit Order batch for that particular month. NOTE that the above mentioned Payments must be made via EFT.
- 3.3.3.2 The 2nd month and onwards the Subscriber will be pre-billed as per terms of service rendered by NEOFIBRE.
- 3.4. **Return of Debit Orders**
- 3.4.1 In the event that Subscriber's monthly debit order returns as rejected for any reason whatsoever the following will be applicable:
- 3.4.1.1 The connectivity of the Subscriber will be cut off immediately, without notice.
- 3.4.1.2 The Subscriber will be liable and responsible for an additional fee of R150.00 (One Hundred and Fifty Rand) for reconnection to the system.
- 3.4.1.3 The above mentioned amount will immediately be owing due and payable and will be rendered as a separate invoice.
- 3.4.2 The Subscriber agrees that it is the responsibility of the subscriber to ensure that the Debit Order for his account is paid. NEOFIBRE will not be responsible to ensure that Debit Orders of the Subscriber is paid.
- 3.4.3 In the event where Debit Orders are declined and or returned for whatsoever reason it is the duty of the Subscriber to ensure that payment is made for that month failure to remunerate NEOFIBRE for declined Debit Orders will result in NEOFIBRE taking action as set out in Paragraph 3.4.1.

4. DURATION

- 4.1. The Duration of this Agreement will be subjected to the alternative of the rental agreement as chosen and agreed upon between the parties, this Subscriber Agreement shall commence on the Activation Date;
- 4.2. Alternatively, and in the event where no rental agreement is applicable the duration of the Subscriber Agreement will be applied on a month to month basis as from the Commencement Date. The Subscriber Agreement will therefore continue for an uninterrupted period on a month to month basis, unless the Subscriber notifies NEOFIBRE in writing of its intention to terminate this Agreement 30 (Thirty) days prior to the aforesaid termination date.

5. INSTALLATION OF EQUIPMENT

- 5.1 The Subscriber shall allow NEOFIBRE or the approved representatives of NEOFIBRE to carry out such work at the Subscriber's premises as is necessary to effect operation of the service.
- 5.2 The Subscriber herewith indemnifies, NEOFIBRE, its members, employees, agents or approved representatives against all damages, costs and expenses incurred in performing such implementation and all damages, costs and/or expenses which may be incurred as a result of installation.
- 5.3 NEOFIBRE shall not in any manner whatsoever be liable and/or responsible for any acts or omissions of whatever nature of its approved representatives /agents and/or any other party.
- 5.4 In compliance with best practice and in accordance with safety regulations, NEOFIBRE does not allow its



employees, agents or any approved representative to complete any work during harsh winds, or on any wet surface.

- 5.5 Scheduled appointments for installation will be cancelled and rescheduled should strong winds or rain occur on that day. The appointment for installation shall accordingly be rescheduled to the next available date. The aforementioned is subject to safety regulations and/or risk of injury that might occur.
- 5.6 In the event of pre-installed equipment, a connection fee will be charged to connect the Subscriber to the system.

6. EQUIPMENT WARRANTEE

- 6.1 Upon activation and installation of equipment, NEOFIBRE offers up to 12 (Twelve) months' warrantee, excluded in the warrantee is lightning damage on all equipment. Note that standard Terms and Conditions apply.
- 6.2 NEOFIBRE gives a 30 (Thirty) day workmanship guarantee on all new installations done by NEOFIBRE.
- 6.3 The Subscriber agrees that any and all changes and/or improvements and/or repairs to the equipment are done for the Subscriber's account, unless the damage and/or fault are so incurred as a result of the NEOFIBRE's negligence.
- 6.4 It is standard policy of NEOFIBRE to pre-advise the Subscriber of any potential costs in the form of:
- 6.4.1 a formal quote in the event where the exact fault is known; or
 - 6.4.2 an estimate in the event where a non - site evaluation is required

7. SUBSCRIBER PRIVACY POLICY

NEOFIBRE shall take all reasonable steps to protect the personal information of Subscribers. For the purpose of this clause, "personal information" shall be deemed as detailed in Section 1 of the Promotion of Access to Information Act (Act No 2 of 2000) (PAIA).

8. LIMITATION OF LIABILITY

- 8.1 NEOFIBRE shall not be liable for any loss, damage injury or cost which may be suffered by the Subscriber, nor shall the Subscriber be entitled to withhold any payments, as a result of any failure, malfunctioning or interruptions in the supply of the system to the Subscriber, or any other reason whatsoever that a defect arising from the system other than due wilful misconduct, gross negligence or a breach of a term of this Agreement on the part of NEOFIBRE.
- 8.2 NEOFIBRE shall not be liable for any damage and/or loss caused to the Subscriber whether said damage and or loss incurred, be caused directly, indirectly, consequentially, financially or otherwise either contractually and/or delictually to the Subscriber through any breach of this Agreement by NEOFIBRE or any matters arising under it or any defect, failure or suspension in the service, the system or the Subscriber equipment or any change in the Subscriber's service(s).
- 8.3 The Subscriber acknowledges and agrees that the service quality and coverage available to the Subscriber shall be limited to that provided by the data, wireless, fixed line or ISP, Network Providers and the services may from time to time be adversely affected by physical features as well as atmospheric conditions and other causes of interference.
- 8.4 The service provided by NEOFIBRE expressly excludes the problems that the Subscriber might incur that is caused by:



- 8.4.1 any misuse of hardware and/or software; or
 - 8.4.2 unauthorized tampering with hardware and/ or software;
 - 8.4.3 electrical malfunction;
 - 8.4.4 any misuse whatsoever;
 - 8.4.5 wilful act by the Subscriber, its agents, employees or the Subscribers approved agents;
 - 8.4.6 default attributable to the Subscriber, its agents, employees or the Subscribers approved agents
 - 8.4.7 irregular fluctuating electrical power supply.
- 8.5 Neither party shall be liable to the other for any inability to perform or for delayed performance in terms of this Agreement, should such inability arise from any cause beyond the reasonable control of such party such events may include but is not limited to storms, floods and hurricanes (herein after referred to as Force Majeure event). The Subscriber shall inform NEOFIBRE in writing should such an event occur and visa versa. The party failing to inform the other party of such a force majeure event in writing accepts that liability may exist from failure to give written notice of the force majeure event.
- 8.5 NEOFIBRE provides all reasonable effort and its best endeavours to provide impeccable services to the Subscriber, however NEOFIBRE does not guarantee that services rendered and transmitted will be error free and/or without viruses, and/or that the services are secure from unlawful access.
- 8.6 Note that all Wireless services require a clear line of sight to NEOFIBRE's nearest tower in order to operate effectively. Note that NEOFIBRE provides these on an "as is" and "up to" service level agreement. The aforementioned means that installations are done with high quality products and workmanship, but that the line speed achieved is not guaranteed and that variations may occur.

9. USE OF THE SERVICE, STATUTORY AND REGULATORY PROVISIONS AND SUBSCRIBER EQUIPMENT

- 9.1 The Subscriber shall at all times comply with all statutory or other regulatory provisions relating to wireless telegraphy and telecommunications services applying to the provision and use of the services, from time to time.
- 9.2 In addition, the Subscriber shall:
- 9.2.1 Comply with any instructions issued by NEOFIBRE subjected the Subscriber's use of the services or connected matters; and
 - 9.2.2 Provide NEOFIBRE with all such necessary information that NEOFIBRE may reasonably require; and
 - 9.2.3 Only use equipment which is approved for use with the system by NEOFIBRE in writing.
- 9.3 NEOFIBRE will tolerate no form of criminal activity on NEOFBIRE's network. Criminal activity includes but is not limited to the activities as set out below:
- 9.3.1 Hacking any person's system; or
 - 9.3.2 Phishing any person's system or
 - 9.3.3 Trespassing on any person's system
 - 9.3.4 Any other activity which is prohibited by the law.
- 9.4 In the event where the above mentioned would occur the South African Police Services will subpoena NEOFBIRE for the all the necessary and/or relevant information which subpoena NEOFIBRE will comply with.
- 9.5 NEOFBIRE reserves the right to disconnect the Subscriber's system until such time the investigation is completed by all relevant and necessary authorities.



10. TERMINATION/ CANCELLATION AND/OR COMPLETION OF THIS AGREEMENT

- 10.1. NEOFIBRE may terminate this Agreement by written notice if;
- 10.1.1. Any license to operate or use the system is revoked, terminated or modified for any reason whatsoever albeit that the license is revoked, terminated or modified either in whole or in part; or
- 10.1.2. The Subscriber is in breach of any of the terms of this Agreement and the Subscriber has failed to remedy the breach despite notice do rectify the breach. NEOFIBRE will terminate the agreement by giving the subscriber 20 (Twenty) business days written notice in which event NEOFIBRE will claim the full settlement amount due from the Subscriber in terms of this Agreement and for the duration of the contract term.
- 10.2 The Subscriber (consumer) may terminate this agreement in accordance with the Consumer Protection Act 68 of 2008 as follows:
- 10.2.1 The Subscriber may cancel this agreement upon the expiry of the fixed term of this contract without penalty or charge, but in the event where any outstanding fees and or charges are due before such expiry of contract, NEOFIBRE will be entitled to such payment by the subscriber.
- 10.2.1 Terminate the agreement by giving the supplier not less than 20 (Twenty) business days' notice in writing.
- 10.2.2 The subscriber remains liable to NEOFIBRE for any amounts owed to NEOFIBRE in terms of that agreement up to the date of cancellation and NEOFIBRE may impose a reasonable cancellation penalty with respect to any goods supplied, services provided, or discounts granted, to the subscriber in contemplation of the agreement enduring for its intended fixed term. NEOFIBRE shall if any property constitutes it, credit the Subscriber with any amount that remains the property of the Subscriber as of the date of cancellation.
- 10.3 Upon the the expiry of the fixed term contract of this agreement, it will be automatically continued on a month-to-month basis. If any material change of the agreement are to change NEOFIBRE will accordingly advice the Subscriber of such change in writing. The fixed term contract will only be terminated in the event where the Subscriber expressly directs the NEOFIBRE to terminate the agreement on the expiry date or where the Subscriber agrees to a renewal of the agreement for a further fixed term.

11. VARIATION OF TARIFF

- 11.1 NEOFIBRE reserves the right to amend all or any of the tariffs of this Agreement by publishing the amended tariffs' and by subsequently informing the Subscriber of the aforesaid amended tariffs' via Written Notice, variation of tariffs' shall be implemented 21 (Twenty) business days after written notice was deemed to be effected.

12. DOMICILIA AND NOTICES

- 12.1 The parties choose the following as their domicilia citandi et executandi their respective addresses for all purposes arising out of or in connection with this Agreement. All notices and or services in respect of this agreement may be deemed validly served or delivered at the following respective addresses so chosen by the parties

- 12.1 In respect of the SUBSCRIBER

Physical Address: _____

Email Address: _____

Fax Address: _____



12.2 In respect of NEOFIBRE

Physical Address: 21 Merriman Avenue Vereeniging, 1930

Email Address: info@neofibre.com

Fax Address: 016 422 6233

- 12.3 Any notice and or process may be served at the addresses as specified above, which will serve as the domicilia citandi et executandi of the parties.
- 12.6 A fax sent to the above fax number shall be deemed to have been received the day after which such fax have been sent.
- 12.7 An email sent to the above email address shall be deemed to have been received the day after which such email have been sent.
- 12.8 A party shall be entitled to amend it's address by giving 7(Seven) days written notice to this effect to the other party.

13. COPYRIGHT

- 13.1. NEOFIBRE servers may be used only for lawful purposes.
- 13.2 Transmission, distribution or storage of any material in violation of any applicable law, by-law, regulation and/or proclamation is prohibited. The aforesaid includes but is not limited to:
- 13.2.1 material protected by copyright;
 - 13.2.2. material protected by trademark;
 - 13.2.3 trade secret; or
 - 13.2.4 other intellectual property rights used without proper authorization;
 - 13.2.5 any material that is obscene,
 - 13.2.6 any material that is defamatory,
 - 13.2.6 any material that constitutes a legal threat, or
 - 13.2.7 violates export control laws.
 - 13.2.8 Examples of unacceptable content or links includes the following but is not limited to:
 - (i) "Pirated software",
 - (ii) "Hackers programs or archives",
 - (iii) "Warez Sites",
 - (iiii) "Irc Bots",
 - (iv) "Illegal Mp3's".
- 13.3 NEOFIBRE will be the sole arbiters as to what constitutes a violation of the aforesaid provisions but will do so with guidance from NEOFIBRE's governing body, the Internet Service Provider's Association.

14. GENERAL

- 14.1 Unless otherwise agreed between the parties to this Agreement, no addition to or variation, consensual cancellation or novation of this Agreement and no waiver arising from this Agreement or its breach or termination shall be of any force or effect unless reduced to writing and signed by both parties.
- 14.2 In any provision of this Agreement is declared by any competent court to unenforceable, illegal, void or contrary to public policy, such declaration shall have no effect upon the binding force or effectiveness of any of the remaining provisions of this Agreement.
- 14.3 This Agreement constitutes the whole agreement between the parties, as to the subject matter hereof and no agreements, representations or warranties between the parties regarding the subject matter hereof,



other than those set out herein, shall be binding on the parties to this Agreement.

14.4 Each party warrants the other that it has the necessary rights and or authorities to enter into and to perform its obligations in accordance with the terms and conditions of this Agreement.

15. CESSION

15.1 The Subscriber hereby agrees that NEOFIBRE shall be entitled to cede its rights in terms of cession as security for any third party in respect of borrowings or other liabilities of NEOFIBRE and that, in such event:

15.1.1 The third party shall be entitled to enforce all the rights in terms of the cession as if it were NEOFIBRE;

15.2 Upon such rights being enforced the indebtedness of the subscriber to NEOFIBRE in terms of this agreement shall be reduced by an amount equal to the rights taken over by such third party.

16. SIGNATORIES

I/We hereby confirm that we fully read and understand the terms and conditions of NEOFIBRE Wireless internet and agree with the terms set out in this Agreement.

This agreement is also available online at <http://www.NEOFIBRE.com> and can be changed at any time without any Notice to the customer's. You accept this and it is your responsibility to update your details with NEOFIBRE and be updated by the Terms and Conditions on the Website

Thus done at _____ and signed on the _____ day of _____ 20__.

Signature of applicant

Signature of Witness

Thus done at _____ and signed on the _____ day of _____ 20__.

Signature of Employee/Agent/Representative of NEOFIBRE

Signature of Witness
